

Bobby Boyer,	:	Civil Action No.: _____
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
AmSher Collection Services, Inc.,	:	COMPLAINT
	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	
	:	

JURISDICTION

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PARTIES

4. The Plaintiff, Bobby Boyer (“Plaintiff”), is an adult individual residing in Kannapolis, North Carolina, and is a “consumer” as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant AmSher Collection Services, Inc. (“AmSher”), is a Alabama business entity with an address of 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

6. The Plaintiff incurred a financial obligation in the approximate amount of \$2,110 (the “Debt”) to Purchasing Power, LLC (the “Creditor”).

7. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

8. The Debt was purchased, assigned or transferred to AmSher for collection, or AmSher was employed by the Creditor to collect the Debt.

9. The Defendant attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. AmSher Engages in Harassment and Abusive Tactics

10. AmSher placed a call to Plaintiff on March 25, 2011 in an attempt to collect the Debt.

11. AmSher informed Plaintiff that they were attempting to collect three separate debts totaling approximately \$2,100.00.

12. AmSher only sent a “30-Day Validation” to Plaintiff with regard to one of the three debts, with a current balance of \$731.01.

13. Plaintiff sent a letter (the “Letter”) to AmSher on March 25, 2011 via certified mail which notes that Plaintiff disputes the current balance of the Debt.

14. AmSher signed for and received the Letter on March 30, 2011.

15. AmSher has not responded to the Letter however it has placed several calls to Plaintiff since March 30, 2011 in an attempt to collect the Debt, the most recent of which was placed by AmSher on April 6, 2011.

16. AmSher failed to include the “mini-Miranda warning” when speaking with Plaintiff.

C. Plaintiff Suffered Actual Damages

17. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendant’s unlawful conduct.

18. As a direct consequence of the Defendant’s acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

COUNT I **VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.**

19. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. The Defendant's conduct violated 15 U.S.C. § 1692c(a)(1) in that Defendant contacted the Plaintiff at a place and during a time known to be inconvenient for the Plaintiff.

21. The Defendant's conduct violated 15 U.S.C. § 1692e(10) in that Defendant employed deceptive means to collect a debt.

22. The Defendant's conduct violated 15 U.S.C. § 1692e(11) in that Defendant failed to inform the consumer that the communication was an attempt to collect a debt.

23. The Defendant's conduct violated 15 U.S.C. § 1692g(b) in that Defendant continued collection efforts even though the Debt had not been verified.

24. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

25. The Plaintiff is entitled to damages as a result of Defendant's violations.

COUNT II
VIOLATION OF THE NORTH CAROLINA DEBT COLLECTION ACT,
N.C. Gen.Stat. § 75-50, et seq.

26. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

27. The Plaintiff is a "consumer" as the term is defined by N.C. Gen.Stat. § 75-50(1).

28. The Plaintiff incurred a "debt" as the term is defined by N.C. Gen.Stat. § 75-50(2).

29. The Defendant is a "debt collector" as the term is defined by N.C. Gen.Stat. § 75-50(3).

30. The Defendant's conduct violated N.C. Gen.Stat. § 75-52(3) in that Defendant caused a telephone to ring with such frequency as to be unreasonable or to constitute a harassment to the person under the circumstances.

31. The Defendant's conduct violated N.C. Gen.Stat. § 75-54(2) in that Defendant failed to disclose in all communications attempting to collect a debt that the purpose of such communication was to collect a debt.

32. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the North Carolina Debt Collection Act, including every one of the above-cited provisions.

33. The Plaintiff is entitled to damages as a result of Defendant's violations.

COUNT III
VIOLATION OF THE NORTH CAROLINA UNFAIR TRADE PRACTICES ACT,
N.C. Gen.Stat. § 75-1.1, et seq.

34. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

35. The Defendant's unfair or deceptive acts to collect the Debt occurred in commerce, in violation of N.C. Gen.Stat. § 75-1.1.

36. The Plaintiff suffered mental anguish, lost wages and other damages in an amount to be proven at trial.

37. Defendant's failure to comply with these provisions constitutes an unfair or deceptive act under N.C. Gen.Stat. § 75-1.1 and, as such, the Plaintiff is entitled to damages plus reasonable attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant;
2. Statutory damages of \$1,000.00 for each violation pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendant;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant;
4. Double or treble damages plus reasonable attorney's fees pursuant to N.C.G.S. § 75.16.1;
5. Actual damages from Defendant for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations in an amount to be determined at trial for the Plaintiff;
and
6. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: April 7, 2011

Respectfully submitted,

By /s/ Stacie Watson

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